

Notice of Allowability

Application No.

09/929,241

Examiner

Ghassem Alie

Applicant(s)

GASS ET AL.

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08/12/05.
2. ☒ The allowed claim(s) is/are 1-12 and 17, 20, 21, 27, and 28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 02/27/05-10/08/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Response to Amendment

1. Applicant's arguments, see page 8, lines 20-23, page 10, lines 3-8, and pages 14 and 15, filed on 08/12/05, with respect to claims 1, 9, 17, 20, and 27 have been fully considered and are persuasive. Therefore, the rejection of claims 1, 9, 17, 20 and 27 has been withdrawn. It should be noted that the declaration under 37 CFR 1.132 filed on 08/12/05 has contributed to reconsideration and withdrawn of rejection of claims 1, 9, 17, 20, and 27.

Election/Restrictions

2. Claims 10-12 deemed allowable and directed to the previously nonelected species Y (claims 10-12 and 16) that is now rejoined with the elected species I and X. It should be noted that non-elected species Y is related to the elected species I and X.

Double Patenting

3. The provisional obviousness double patenting rejection of claims 1-9, 20, 21, and 27 in view of claims 1-20 from co-pending application No. 09/959,227 has been withdrawn, since claims 2, 5, 8, and 13-18 and 20 from the co-pending application have been cancelled. In addition, the limitation a brake pawl "binds against the teeth of the cutting too" as recited in claim 9 of the instant application has not been disclosed in the co-pending application.

The provisional obviousness double patenting rejection of claims of 1-9, 20, 21 and 27 in view of claims 1-20 from co-pending application No. 10/215,929 combined with Lokey (3,785,230) has been withdrawn, since the cited co-pending application has gone abandoned.

The provisional obviousness double patenting rejection of claim of 9 in view of claims 1-20 from co-pending application No. 10/215,929 has been withdrawn, since the cited co-pending application has gone abandoned.

The provisional obviousness double patenting rejection of claims 1-7, 9, 20, and 27 in view of claims 1-20 from co-pending application No. 10/785,361 has been withdrawn, since a two-way test for obviousness has not been applied. Therefore, the applied obviousness double patenting rejection is improper. See *In re Braat*, 937 F.2d 589, 19 USPQ2D 1289 (Fed. Cir. 1991).

The provisional obviousness double patenting rejection of claims 8 and 21 in view of claims 1-20 from co-pending application No. 10/785,361 combined with Lokey has been withdrawn, since a two-way test for obviousness has not been applied. Therefore, the applied obviousness double patenting rejection is improper. See *In re Braat*, 937 F.2d 589, 19 USPQ2D 1289 (Fed. Cir. 1991).

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: The claims are allowable because the prior art fails to teach that the brake mechanism includes at least one brake pawl configured to pivot into the teeth of the blade as set forth in claims 1, 20, 27, and 28. The prior art also fails to teach that the tooth-engaging portion of the brake pawl is formed of metal and binds against the teeth of the cutting tool as set forth in claim 9. The prior art also fails to teach that the brake mechanism includes one or two braking components of the brake mechanism that is formed from metal and is configured to move into contact, and bind against, the cutting tool and one or more ridges adapted to at least partially bite into the cutting tool as set forth in claim 17.

Regarding claims 1, 9, 17, 20, 27, and 28, Lokey teaches a wood working machine including a rotatable blade having one or more teeth, a detection system associated with the

Art Unit: 3724

blade and configured to detect one or more dangerous conditions. Lokey also teaches a brake mechanism configured to stop the rotation of the blade if one or more dangerous conditions are detected. Lokey also that the brake mechanism includes a brake pawl configured to come into contact with the teeth of the blade. However, Lokey fails to teach that the brake mechanism includes at least one brake pawl configured to pivot into the teeth of the blade as set forth in claims 1, 20, 27, and 28. Lokey also fails to teach that the tooth-engaging portion of the brake pawl is formed of metal and binds against the teeth of the cutting tool as set forth in claim 9. Lokey also fails to teach that the brake mechanism includes one or two braking components of the brake mechanism that is formed from metal and is configured to move into contact, and bind against, the cutting tool and one or more ridges adapted to at least partially bite into the cutting tool as set forth in claim 17.

Harkness (4,090,345) teaches a brake mechanism including a brake pawl pivoting into contact with the teeth of a brake wheel. However, Lokey in view of Harkness does not teach that the brake pawl is formed of metal and pivots into the contact with the teeth of a cutting tool.

None of these references by themselves or in combination with the other prior art cited teach the claimed invention set forth in claims 1, 9, 17, 20, 27, and 28.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Campbell (1,590,988) and Menke (4,907,679) teach a brake mechanism including a brake pawl pivot into contact with the teeth of a brake wheel instead of teeth of a cutting tool.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

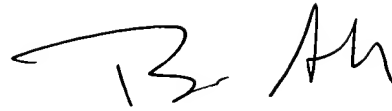
Application/Control Number: 09/929,241

Page 6

Art Unit: 3724

GA/ga

October 25, 2005

A handwritten signature in black ink, appearing to read 'B. Ashley'.

BOYER D. ASHLEY
PRIMARY EXAMINER